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9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 JAMES IIAMS, individually and AMANDA
MATTHEWS, individually,

12 Plaintiffs,

13 vs.

14 LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a political subdivision of the
15 State of Nevada; SERGEANT JUSTIN
BRYERS; OFFICER RICHARD NELSON;
16 OFFICER JONATHAN CARRINGTON;
OFFICER LUKAS FERRIS; and DOE
17 OFFICERS I-XX,

18 Defendants.
19

CASE NO.: 2:18-cv-00231-RFB-CWH

**STIPULATION TO EXTEND
DISCOVERY**

(First Request)

20 Defendant Las Vegas Metropolitan Police Department (“LVMPD”), by and through its
21 counsel, Lyssa Anderson, Esq., of the law firm of Kaempfer Crowell, and James Iiams and
22 Amanda Matthews (“Plaintiffs”), by and through their counsel, Jared Richards, Esq. of Clear
23 Counsel Law Group hereby stipulate and agree that the discovery cut-off date of September 4,
24 2018, be continued for a period of ninety (90) days up to and including **December 3, 2018**, for

1 the purpose of allowing the newly named Defendants to be served and respond to the Amended
2 Complaint, to allow the parties to complete written discovery, to retain and disclose expert
3 witnesses, and to take depositions of the parties and third-party witnesses.

4 **DISCOVERY COMPLETED TO DATE**

5 Defendant, LAS VEGAS METROPOLITAN POLICE DEPARTMENT, ("LVMPD")
6 has provided its initial Rule 26(f) Disclosures and its First Supplement to Rule 26 Disclosures to
7 Plaintiffs. Plaintiffs have provided their Rule 26 Disclosures to LVMPD.

8 LVMPD served its First Interrogatories on Plaintiffs which were responded to. LVMPD
9 also served Requests for Admissions and Requests for Production of Documents on each
10 Plaintiff. Those responses are currently due July 19, 2018 and July 26, 2018.

11 **DISCOVERY YET TO BE COMPLETED**

12 Plaintiffs were recently given leave to file an Amended Complaint adding several
13 individual LVMPD Officers as Defendants. The Amended Complaint was filed on July 2, 2018
14 and Summonses were issued for the individual Officers. Plaintiffs have not yet served the newly
15 named Defendants and LVMPD has not filed a response to the Amended Complaint.

16 Plaintiffs will respond to the outstanding Requests for Admissions and Requests for
17 Production of Documents by LVMPD. Plaintiffs will serve written discovery on LVMPD and
18 the newly named Defendants once they make an appearance in the case. The parties will provide
19 additional documents and will take the depositions of the named parties and possibly some third-
20 party witnesses. The parties will retain expert witnesses and disclose expert reports.

21 **REASONS WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

22 As set out above, the Plaintiffs were recently permitted by the Court to amend their
23 Complaint to add additional Defendants. The newly named Defendants have not yet been served
24 and have not yet made an appearance. With the addition of new Defendants, the scope of

1 discovery has changed. The parties have been diligent in engaging in discovery, however, based
2 upon the procedural history, the parties require additional time to conduct discovery.

3 **PROPOSED EXTENDED DEADLINES**

4 Accordingly, it is hereby stipulated and respectfully requested that this Court enter an
5 order as follows:

6 **(A) Discovery Deadline.**

7 That the current discovery cut-off date of September 4, 2018, be extended for a period of
8 ninety (90) days, up to and including **December 3, 2018.**

9 **(B) Experts and Rebuttal Experts.**

10 The parties, and each of them, shall disclose their experts to each other at least sixty (60)
11 days before the discovery cut-off date, or by **October 4, 2018.** The parties, and each of them,
12 shall disclose rebuttal experts at least thirty (30) days after the initial date for disclosure of
13 experts, or by **November 5, 2018.**

14 **(C) Dispositive Motions.**

15 All pretrial motions, including but not limited to, discovery motions, motions to dismiss,
16 motions for summary judgment, and all other dispositive motions shall be filed and served no
17 later than thirty (30) days after the close of discovery, which is by **January 2, 2019.**

18 **(D) Motions in Limine/Daubert Motions.**

19 Under LR 16-3(b), any motions in limine, including Daubert type motions, shall be filed
20 and served thirty (30) days prior to the commencement of Trial. Oppositions shall be filed and
21 served and the motion submitted for decision fourteen (14) days thereafter. Reply briefs will be
22 allowed only with leave of the Court.

1 **(E) Pretrial Order.**

2 Pursuant to LR 26(1)(e)(5) the Joint Pretrial Order shall be filed with this Court no later
3 than thirty (30) days after the date set for filing dispositive motions, which shall be by
4 **February 1, 2019**, unless dispositive motions are filed, in which case the date for filing the Joint
5 Pretrial Order shall be suspended until thirty (30) days after the decision on the dispositive
6 motions or further order of this Court. The disclosures required by Fed. R. Civ. P. 26(a)(3) and
7 any objections shall be included in the final pretrial order.

8 **(F) Interim Status Report.**

9 In accordance with LR 26-3, not later than sixty (60) days before the discovery cut-off,
10 the parties shall submit an interim status report stating the time they estimate will be required for
11 trial giving three (3) alternative available trial dates, and stating whether in the opinion of
12 counsel who will try the case, trial will be eliminated or its length affected by substantive
13 motions. The status report shall be signed by counsel for each party or the party, if appearing in
14 *pro se*. The parties shall file the interim status report by **October 4, 2018**.

15 **(G) Extensions or Modification of the Discovery Plan and Scheduling Order.**

16 In accordance with LR 26-4, applications to extend any date set by the discovery plan,
17 scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be
18 supported by a showing of good cause for the extension. All motions or stipulations to extend a
19 deadline set forth in a discovery plan shall be received by the Court not later than twenty-one
20 (21) days before the expiration of the subject deadline. A request made after the expiration of
21 the subject deadline shall not be granted unless the movant demonstrates that the failure to set
22 was the result of excusable neglect. Any motion or stipulation to extend a deadline or to reopen
23 discovery shall include:

24 (a) A statement specifying the discovery completed;

- 1 (b) A specific description of the discovery that remains to be completed;
- 2 (c) The reasons why the deadline was not satisfied or the remaining discovery was
- 3 not completed within the time limits set by the discovery plan; and
- 4 (d) A proposed schedule for completing all discovery.

5 The parties recognize that this request is not being made within twenty-one (21) days of

6 the current deadline to disclose expert witnesses, July 6, 2018 pursuant to LR 26-4; however the

7 parties submit that the excusable neglect exists.

8 LR 26-4 states in relevant part:

9 A motion or stipulation to extend a deadline set forth in a discovery plan must be

10 received by the court no later than 21 days before the expiration of the subject

11 deadline. A request made within 21 days of the subject deadline must be

12 supported by a showing of good cause. A request made after the expiration of the

13 subject deadline will not be granted unless the movant also demonstrates that the

14 failure to act was the result of excusable neglect.

15 In evaluating excusable neglect, the court considers the following factors: (1) the reason

16 for the delay and whether it was in the reasonable control of the moving party, (2) whether the

17 moving party acted in good faith, (3) the length of the delay and its potential impact on the

18 proceedings, and (4) the danger of prejudice to the nonmoving party. *See Pioneer Inv. Servs. Co.*

19 *v. Brunswick Assocs.*, 507 U.S. 380, 395 S. Ct. 1489, 123 L.Ed.2d 74 (1993).

20 The parties were not aware whether Plaintiffs' request to amend their complaint would be

21 granted twenty-one (21) days ago. Indeed, Plaintiff's Amended Complaint was just filed on

22 July 2, 2018. Since Plaintiffs' Complaint has been amended to name new Defendants, the scope

23 of discovery has changed. Moreover, the new Defendants should be afforded time to participate

24 in discovery after their appearance is made.

25 This request for an extension is made in good faith, jointly by the parties hereto, to allow

26 additional time for the new Defendants to be served and appear in the case; to allow the parties'

1 time to complete written discovery, to taken depositions and to disclose expert witnesses and
2 rebuttal expert witnesses. This request is not timely, however, is the result of excusable neglect,
3 being that the parties were not certain whether the leave to amend would be granted by the Court.
4 Trial is not yet set in this matter dispositive motions have not yet been filed. Accordingly, this
5 extension will not delay this case. Moreover, since this request is a joint request, neither party
6 will be prejudiced. The extension will allow the parties the necessary time to prosecute this case.

7 DATED this 6th day of July, 2018.

8 KAEMPFER CROWELL

CLEAR COUNSEL LAW GROUP

9
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Attorneys for Plaintiffs

15 **ORDER**

16 IT IS SO ORDERED.

17 
18 _____
19 UNITED STATES MAGISTRATE JUDGE
20 Dated: July 11, 2018
21 _____